

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ELOISE HERRON,

Plaintiff,

vs.

MISTER JONATHAN JACKSON, III, *et al.*,

Defendants.

Case No.: 2:17-cv-03051-GMN-GWF

ORDER

Pending before the Court is the Motion to Substitute Party filed by Defendant Mister Jonathan Jackson, III (“Jackson”), (ECF No. 2), in which Jackson requests that the United States of America (“United States”) be substituted in his place pursuant to the Federal Torts Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b)(1), 2401(b), 2671-2680. Under the FTCA, a district court shall substitute the United States for a federal employee upon certification by the United States Attorney that the employee was acting within the scope of his office or employment at the time of the incident out of which a claim arises. *See* 28 U.S.C. § 2679(d)(1), (2); 28 C.F.R. § 15.4.

Here, the Acting United States Attorney for the District of Nevada has certified that Jackson was acting within the scope of his employment at the time of the incident alleged in the Complaint. (*See* Ex. A to Mot. to Substitute, ECF No. 2-1). Furthermore, Plaintiff Eloise Herron (“Plaintiff”) has failed to oppose Jackson’s Motion and the deadline to do so has now expired. *See* D. Nev. R. 7-2(d) (“The failure of an opposing party to file points and authorities in response to any motion . . . constitutes a consent to the granting of the motion.”).

Based on the foregoing,

IT IS HEREBY ORDERED that the Motion to Substitute, (ECF No. 2), is
GRANTED.

1 **IT IS FURTHER ORDERED** that pursuant to 28 U.S.C. § 2679(b)(1) and (d)(2)
2 Jackson is dismissed from the instant action and the United States is substituted as the
3 defendant in his place.

4 **IT IS FURTHER ORDERED** that the caption for this action be modified to reflect the
5 substitution of the United States for Jackson as the federal defendant in this matter.

6 **DATED** this 26 day of January, 2018.

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10 Gloria M. Navarro, Chief Judge
11 United States District Court
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